

REMARKS

Amendments to the Claims

Applicant has canceled claims 51-73 and 98-118 without prejudice. Applicant reserves the right to pursue canceled subject matter in any future patent application(s) that claims priority hereto.

In sum, claims 74-97 are pending.

The Interview Summary and the Advisory Action

Applicant thanks the Examiner for the courtesy shown during the telephone interview on December 5, 2006, with Daniel Hulseberg, Steven Kenny and Kimberley Gavin, Applicant's representatives. In accordance with § 713.04 of the MPEP, Applicant sets forth the substance of the interview as follows:

During the interview, the participants discussed the pending claims, with particular attention directed to independent claims 51 and 98. The prior art of record was discussed, including the Examiner's interpretation of U.S. Patent No. 5,685,453 issued to Goins ("Goins"), and more specifically, the rib units as disclosed in Figure 2A of Goins. During the interview, the participants discussed possible claim amendments, including those provided to the Examiner on September 8, 2006, to distinguish the rejected claims over the cited prior art. No agreement was raised with respect to the rejected claims.

The Advisory Action mailed from the United States Patent and Trademark Office on December 7, 2006 indicated that Applicant's response dated November 27, 2006 failed to place the application in condition for allowance. The Advisory Action indicated that, although Applicant objections to the inversion of the lid as unacceptable, the Office Action has adequately responded to Applicant's objection in the final Office Action mailed September 26, 2006. The Advisory Action further indicated that for purposes of appeal, the amendments proposed in the November 27, 2006 Response will be entered and that the status of the claims is as follows:

Claims allowed: 74-97.

Claims rejected: 51-73 and 98-118.

The Office Action

The Rejection Under 35 U.S.C. § 102(b)

Claims 98-118 Are Not Anticipated By Goins

In the final Office Action dated September 26, 2006, the Examiner has maintained the rejection of claims 98-118 as being anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 5,685,453 issued to Goins ("Goins"), for the reasons previously set forth in the Office Action dated March 13, 2006. Applicant respectfully traverses this rejection.

To support a rejection under 35 U.S.C. § 102(b), each and every feature of the rejected claim must be disclosed in a single prior art reference. Contrary to the suggestion of the Office Action, Applicant respectfully submits that Goins does not disclose several limitations of the claimed invention. For example, independent claim 98 of the present application recites, among other things, that a base for a food container comprises "a plurality of upwardly extending first rib units, which include a first outward rib projecting away from the interior and a first inward rib projecting towards the interior." Applicant respectfully submits that Goins does not disclose this feature.

Solely to expedite issuance of the allowed claims, however, Applicant has canceled claims 98-118 without prejudice. Accordingly, the rejections under 35 U.S.C. § 102(b) are moot.

The Rejection Under 35 U.S.C. § 103(a)

The Claims Are Not Obvious Over Goins In View Of Lucas

In the Office Action dated September 26, 2006, the Examiner maintained the rejection of claims 51-73 under 35 U.S.C. § 103(a) as being unpatentable over Goins in view of U.S. Patent No. 5,441,166 issued to Lucas ("Lucas"), for the reasons made of record in the prior Office Action dated March 13, 2006. Applicant respectfully traverses this rejection.

"To establish a *prima facie* case of obviousness ... there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to

combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references (or references when combined) must teach or suggest all the claim limitations.” MPEP § 2143.

Applicant respectfully submits that neither Goins nor Lucas disclose or suggest, alone or in combination, the base of the pending claims. For example, at a minimum, independent claim 51 of the present application recites a base for a food container including, *inter alia*, “a plurality of first rib units formed in the sidewall upwardly extending from the bottom, each of the plurality of first rib units including a first outward projecting rib extending away from the interior and a first inward projecting rib extending towards the interior, the first inward projecting rib being formed within the first outward projecting rib.”

Solely to expedite issuance of allowed claims 74-97, however, Applicant has canceled claims 51-73 without prejudice. Accordingly the rejections under 35 U.S.C. § 103(a) are moot.

Allowed Subject Matter

Applicant appreciates the Examiner’s acknowledgement that claims 74-97 are allowed. Solely to expedite issuance of claims 74-97, Applicant has canceled rejected claims 51-73 and 98-118 without prejudice to pursue the canceled claims in a patent application that claims priority hereto. Applicant respectfully requests that the Examiner enter this Supplemental Amendment After Final and allow the pending claims, at least for the reasons recognized in the previous office action.

Formal Request for Interview

Applicant submits that the present application is in condition for allowance at least for the reasons set forth herein. If the present application is not considered to be in condition for allowance by the Examiner, Applicant requests the courtesy of a call from the Examiner to discuss the present application and the prior art of record. Applicant’s Attorney, Daniel J. Hulseberg, may be reached by telephone at (212) 408-2594 to schedule a mutually convenient date and time and to provide assistance or additional information as required.

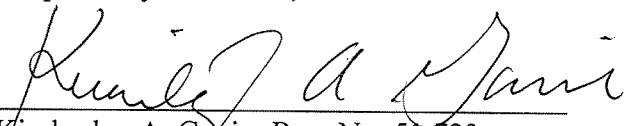
Conclusion

On the basis of the foregoing Remarks, Applicant respectfully submits that the pending claims of the present application are allowed over the prior art of record. Applicant thus respectfully requests that the Examiner enter this Supplemental Amendment and allow claims 74-97 to proceed to issuance.

Applicant submits that this Supplemental Amendment raises no new issues for consideration or necessitates the undertaking of any additional search of the art by the Examiner because claims 74-97 were already allowed by the Examiner. This Supplemental Amendment should therefore allow for immediate action by the Examiner. The Examiner is invited to contact the undersigned at (212) 408-2529 if any additional information or assistance is required.

In addition to the one (1)-month extension of time to file this Amendment, Applicant believes that no fee is due. However, Applicant authorizes, in the Fee Transmittal Form, the Director to charge payment of any additional fees or credit any overpayment associated with this Supplemental Amendment to Deposit Account No. 02-4377.

Respectfully submitted,



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